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8 **One of the Attorneys for**
9 **Plaintiff Oula Zakaria and the Class**

10 ADDITIONAL COUNSEL LISTED ON
11 SIGNATURE PAGE

12 **UNITED STATES DISTRICT COURT**
13 **CENTRAL DISTRICT OF CALIFORNIA**

14 OULA ZAKARIA, individually and as
15 a representative of the class,

16 Plaintiff,

17 vs.
18

19 GERBER PRODUCTS CO., a
20 corporation, d/b/a NESTLE
21 NUTRITION, NESTLE INFANT
22 NUTRITION, AND NESTLE
23 NUTRITION NORTH AMERICA,

24 Defendant.
25
26
27
28

Case No. 2:15-cv-00200-JAK-E

[Hon. John A. Kronstadt]

APPLICATION OF PLAINTIFF FOR
LEAVE TO FILE UNDER SEAL
PORTIONS OF PLAINTIFF'S
SUPPLEMENTAL MEMORANDUM
OF POINTS AND AUTHORITIES

Courtroom: 10B

1 **TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF**
2 **RECORD:**

3 **PLEASE TAKE NOTICE** that pursuant to Local Rule 79-5.2.2 and the
4 Protective Order entered on October 27, 2015 in the above-referenced matter
5 (“Protective Order”) (Dkt. No. 86), Plaintiff Oula Zakaria (“Zakaria”) hereby
6 respectfully seeks leave to file portions of the following documents under seal:

- 7 a) The highlighted portions of Plaintiff’s Supplemental Memorandum
8 of Points and Authorities (“Memorandum of Points and
9 Authorities”) which refer to the exhibits previously marked as
10 confidential and submitted by the parties as attachments to their
11 recent motions.

12 The Protective Order permits the parties to designate documents and
13 deposition testimony relating to confidential, proprietary, or private information.
14 Dkt. No. 86 §§ 1-2.

15 The Memorandum of Points and Authorities, discusses, quotes, and/or refers
16 to exhibits previously marked as confidential and submitted by the parties as
17 attachments to their recent motions, including (1) documents produced by
18 Defendant Gerber Products Co. (“Defendant”) in discovery and designated as
19 “Highly Confidential – Attorneys Eyes Only”, “Confidential – Attorneys Eyes
20 Only”, and “Attorneys Eyes Only” and (2) deposition transcripts that were
21 designated by Defendant as “Highly Confidential – Attorneys Eyes Only”.

22 In particular, the designated internal documents relate to research and
23 strategy concerning the marketing and science behind Defendant’s infant formula
24 products and Defendant’s competitors’ infant formula products. Under the
25 Protective Order, Zakaria may not file designated material in the public record
26 without a Court Order or permission from Defendant. Dkt. No. 86 § 9.

27 Zakaria’s counsel notified Defendant’s counsel of the contents of this
28 Application on February 13, 2016. On that same day, Defendant’s counsel

1 indicated that Defendant would not change its confidentiality designations to the
2 documents identified above.

3 This Application is narrowly tailored to seal only those materials designated
4 confidential or highly confidential by the parties. This Application is supported by
5 (1) the contemporaneously filed Declaration of Stephen J. Fearon, Jr. in Support of
6 Application of Plaintiff for Leave to File Under Seal Plaintiff's Supplemental
7 Memorandum of Points and Authorities and (2) Defendant's forthcoming
8 supporting declaration as a designating party under Local Civil Rule 79-5.2.2(b)(i).

9 Accordingly, Zakaria respectfully requests that the Court grant her
10 application to file and maintain under seal the highlighted portions of the
11 Memorandum of Points and Authorities.

12
13 Dated: February 13, 2017

By: /s/ Stephen J. Fearon, Jr.

Stephen J. Fearon, Jr. (admitted *pro hac vice*)

Paul V. Sweeny (admitted *pro hac vice*)

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